

Bankruptcy (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

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[Bill 94.]

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Class.

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21. Commencement of Act.
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SCHEDULES.

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B I L L

TO

Amend the Law relating to Bankruptcy and Bankruptcy
Arrangements in Ireland.

A.D. 1867.

WHEREAS it is expedient to amend the laws relating to bankruptcy in Ireland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and
5 Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act shall be construed together with so much of the Irish Bankrupt and Insolvent Act, 1857, as was not repealed by the Bankruptcy (Ireland) Amendment Act, 1872, and together with
10 the Bankruptcy (Ireland) Amendment Act, 1872, except so far as the said Act of 1872 is not repugnant to anything contained in this Act.

Construction
of Act with
20 & 21
Vict. c. 60.,
and with
35 & 36
Vict. c. 58.

2. The terms in this Act shall have the same meanings as in the Irish Bankrupt and Insolvent Act, 1857, and in the Bankruptcy
15 (Ireland) Amendment Act, 1872.

Interpre-
tation of terms.

3. Any debtor unable to meet his engagements with his creditors may petition the court for protection, on which petition the court is empowered to make an order granting such protection, but the said order shall cease to have any effect unless the debtor shall, within
20 one week from the making thereof, file a statement of his affairs, showing in detail his liabilities and assets, and setting out the names and addresses of all his creditors and the sum or sums due to each creditor, and specifying the dates and amounts of last and preceding transactions. The said statement shall show the status
25 of each creditor as secured, partly secured, or unsecured; and it shall also set out opposite each debt the consideration therefor.

Debtor must
file verified
statement

(L.) The debtor shall at the same time file an affidavit, in the form in Schedule A. annexed hereto, verifying the said statement, and showing that no agreement for the purpose of promoting or

The state-
ment to be
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[Bill 94.]

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A.D. 1887.

carrying his composition or scheme was entered into between him and any other person or persons, and that no understanding existed between him and any other person or persons, the meaning of which would be the giving a benefit or preference to any one or more creditor or creditors to the prejudice of the other creditors. 5

Provided always, that it shall and may be lawful to and for the debtor, with the leave of the court, to correct and supply any errors and omissions that may be in his said statement.

Official
assignee
to summon
meeting
of creditors.

4. The official assignee shall within one fortnight from the filing of the said statement summon a meeting of the creditors, of which meeting each creditor shall get not less than six days notice, and, together with the notice summoning the said meeting, he shall send to each creditor a copy of the debtor's statement, and also the offer of composition or scheme of arrangement. The creditors, on receipt of the said copy of debtor's statement and offer of composition, shall at once lodge by hand or registered letter with the official assignee sworn proof of debt and voting paper attached, stating whether they accept or do not accept the offer of composition so made; sworn proofs to be considered by the official assignee as proxies for the creditors who are not present or represented at this or any future sitting. The court shall have power, on cause shown, to extend the time for these purposes. Before a debtor can submit an offer of composition or scheme of arrangement he must first have obtained in writing the assent of three-fifths in number and value of his scheduled creditors to his offer or scheme of arrangement. 10 15 20 25

Official
assignee
to act as
secretary to
meeting, and
to take
evidence.

1. Such meeting shall be held at the chambers of the official assignee, or at such other place in Ireland as, in the opinion of the court, shall be most convenient for three fifths in number and value of the creditors; 80
2. And the official assignee or his representative present at such meeting shall have power to examine on oath the debtor or any other person or persons whose evidence may tend to a complete disclosure of all facts and circumstances connected with the case, and the official assignee or his deputy shall attend such meeting and act as secretary thereof. 85

Official
assignee
to cause valuation
of
debtor's
assets to be
made.

5. The official assignee shall, if required by a resolution of the creditors at such meeting, cause a valuation of the debtor's property and assets to be made, and he shall adjourn the meeting for such time as, in the opinion of the majority of the creditors present or represented, shall be most convenient. 40

6. The creditors, by resolution, shall have power to adjourn such meeting from time to time or to such other place as they may deem desirable.

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Creditors may adjourn meeting.

Explanation of terms.

7. The word "resolution" shall mean the decision arrived at by three fifths in number and value of the creditors present or represented by proxy or otherwise at such meeting, and the same shall be binding on all the other creditors, whether absent, present, or represented. Secured debts to the amount secured shall not be included in the debtor's liabilities, but shall be duly explained, as well as the consideration thereof.

8. At such meeting, or any adjournment thereof, the creditors shall have power to elect a chairman, who shall sign the minutes of the said meeting, and the said minutes shall form part of the proceedings and shall be placed on the record in the said matter. The debtor shall attend each meeting, unless his presence be dispensed with by a vote of a majority of the creditors present or represented at the meeting, but the meeting may proceed in his absence, and any decision arrived at shall not be invalidated by reason of his absence.

Power to elect chairman, and provision for attendance of debtor at meeting.

9. The meeting may be adjourned for the purpose of having the debtor examined in court, if, in the opinion of a majority of the creditors present at such meeting, such examination would be advisable.

Debtor may be examined in open court.

10. At such meeting, or any adjournment thereof, the creditors may by resolution accept the debtor's offer of composition or scheme of arrangement, or any modification thereof, or may reject the same and elect to have the debtor adjudicated bankrupt, and if the creditors so elect he shall, by the Court at its next sitting, be adjudicated accordingly.

Creditors may accept or refuse composition.

11. If the creditors accept the offer or scheme of arrangement, whether on the debtor's original or amended offer, the same shall be submitted to the court within one week, and the court shall ratify the same in the hearing and presence of the solicitor or solicitors representing one or more of the largest creditors.

Composition to be submitted to the court for ratification.

12. If at any time facts come to the knowledge of the court showing that the petition for arrangement, composition, or scheme was brought about by fraud or collusion, the court shall have power to annul the said composition or scheme and to adjudicate such debtor bankrupt.

Court in case of fraud may annul proceedings.

13. Every composition or scheme of arrangement and assignment for benefit of creditors shall by the official assignee be duly published in the Gazette in the terms thereof.

Composition to be published in Gazette.

A.D. 1887.

No offer of composition can be made after adjudication.

Assignment for benefit of creditors, and how to be realised.

Private meeting of creditors. If no composition agreed to, the debtor is to be made bankrupt.

Creditors or mortgagees to be compelled to realise within six months.

Court may commit debtor in case of fraud.

14. If a debtor shall have been adjudicated bankrupt, it shall not be afterwards competent to such debtor to make an offer of composition in respect to any of the debts returned upon his said statement.

15. Any debtor who finds himself unable to meet his liabilities may be at liberty to vest in trustees by assignment for the benefit of his creditors all such assets as he may then be possessed of, provided that one of said trustees shall be the official assignee of the bankrupt court holding jurisdiction in the district, and such trustees shall, by tender or by public auction, and after due notice by advertisement has been given, within a reasonable time, and not exceeding six months, realise all said assets, and distribute the proceeds thereof among the creditors in proportion to their respective proofs of debt, said assignment being deemed to be equivalent in effect to a petition to the court for protection in so far as the realisation of the assets and the proportional payment to the creditors.

16. Any debtor unable to meet his engagements may be at liberty to summon a private meeting of his creditors, and lay before said meeting a full statement of his affairs, with a view to obtain the consent of all the creditors to a composition. If at such meeting a unanimous agreement be not come to, the meeting may be adjourned for a fortnight, when a second meeting may be held. But if such said second meeting should not take place, or if it did take place and no composition thereat was agreed to by all the parties concerned, the debtor shall be considered as having committed an act of bankruptcy, and on the application of one or more creditors be adjudicated bankrupt by the court accordingly.

17. On application being made to the court by any one or more creditors through a solicitor at any time after the creditor has been adjudicated a bankrupt, the court may compel any creditor or creditors who hold security by mortgage or otherwise to realise same, and in the manner prescribed in section fifteen of this Act.

18. When there is, in the opinion of the court, ground to believe that the bankrupt or any other person has been guilty of any offence which is by statute made a misdemeanor in cases of bankruptcy, the court may commit the bankrupt or such other person for trial. For the purpose of committing the bankrupt or such other person for trial the court shall have all the powers of a stipendiary magistrate as to taking depositions, binding over witnesses to appear, admitting the accused to bail, or otherwise.

Nothing in this section shall be construed as derogating from the powers or jurisdiction of the High Court of Justice in Ireland. A.D. 1887.

19. Where a debtor has been guilty of any offence which is by statute made a misdemeanor in cases of bankruptcy, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge, or that a composition or scheme of arrangement has been accepted or approved. Discharge from bankruptcy no safety in case of fraud.

20. Where an undischarged bankrupt subsequent to the passing of this Act obtains credit to the extent of twenty pounds or upwards from any person without informing such person that he is an undischarged bankrupt he shall be guilty of a misdemeanor, and may be dealt with and punished as if he had been guilty of misdemeanor under the Debtors Act (Ireland), 1873, and the provisions of that Act shall apply to proceedings under this section. Undischarged bankrupt taking 20l. credit guilty of misdemeanor.

21. This Act shall come into operation on the first day of January one thousand eight hundred and eighty-eight. Commencement of Act.

22. This Act shall apply to Ireland only. Limit of Act.

A.D. 1887.

SCHEDULES.

SCHEDULE A.

I, *A.B.*, being the debtor in this matter, make oath and say that the statement which I have furnished of my affairs is true in substance and in fact.

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To the best of my knowledge, information, and belief I have truly set out all my creditors, classified as secured, partly secured, or unsecured, as well as the sum or sums due by me.

I further say that my sole reason for presenting my petition for protection was because I was unable to meet all my liabilities.

10

I say that the presenting of the said petition was honest and bona fide, and not due to any fraudulent or collusive agreement, arrangement, or understanding between me and any other person or persons.

I say that I have not incorrectly set out any creditor or creditors in my said statement, and that it is not my intention or object to defeat or delay the claims of any of my said creditors, and that there is no collusion between me and any creditor or creditors, or any other person, the effect of which would be to prejudice the claims of any of my other creditors.

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Sworn, &c.

SCHEDULE B.

I, *A.B.*, being a creditor in this matter to the amount of _____, owing to me by the debtor _____, as set forth in the annexed proof of debt, agree (or do not agree) to accept the offer of composition made in this case by the debtor, and hereby require and authorise the official assignee to act as proxy for me and vote at the next or any future meeting of creditors in this case so long as this proxy remains unaltered by me.

25

Signed _____

30

If in partnership, say

For self and partner or partners.

Dated this

day of

18 .

